

§ 264.71

(1) Be a needy State, as defined in § 260.30 of this chapter; and

(2) Submit to ACF a request for contingency funds for an eligible month (i.e., a month in which a State is a needy State).

(b) A determination that a State is a needy State for a month makes that State eligible to receive a provisional payment of contingency funds for two consecutive months.

(c) Only the 50 States and the District of Columbia may receive contingency funds. Territories and Tribal TANF grantees are not eligible.

§ 264.71 What determines the amount of the provisional payment of contingency funds that will be made to a State?

We will make a provisional payment to a State that meets the requirements of § 264.70, within the following limits:

(a) The amount that we will pay to a State in a fiscal year will not exceed an amount equal to $\frac{1}{12}$ times 20 percent of that State's SFAG for that fiscal year, multiplied by the number of eligible months for which the State has requested contingency funds;

(b) The total amount that we will pay to all States during a fiscal year will not exceed the amount appropriated for this purpose; and

(c) We will pay contingency funds to States in the order in which we receive requests for such payments.

§ 264.72 What requirements are imposed on a State if it receives contingency funds?

(a)(1) A State must meet a Contingency Fund MOE level of 100 percent of historic State expenditures for FY 1994.

(2) A State must exceed the Contingency Fund MOE level to keep any of the contingency funds that it received. It may be able to retain a portion of the amount of contingency funds that match countable State expenditures, as defined in § 264.0, that are in excess of the State's Contingency Fund MOE level, after the overall adjustment required by section 403(b)(6)(C) of the Act.

(b) A State must complete an annual reconciliation, in accordance with § 264.73, in order to determine how much, if any, of the contingency funds

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that it received in a fiscal year it may retain.

(c) If required to remit funds under the annual reconciliation, a State must remit all (or a portion) of the funds paid to it for a fiscal year within one year after it has failed to meet either the Food Stamp trigger or the Unemployment trigger, as defined in § 264.0, for three consecutive months.

(d) A State must expend contingency funds in the fiscal year in which they are awarded.

(e) A State may not transfer contingency funds to the Discretionary Fund of the CCDF or the SSBG.

(f) A State must follow the restrictions and prohibitions in effect for Federal TANF funds, including the provisions of § 263.11 of this chapter, in its use of contingency funds.

§ 264.73 What is an annual reconciliation?

(a) The annual reconciliation involves the calculation, for a fiscal year, of:

(1) The amount of a State's qualifying expenditures;

(2) The amount by which a State's countable State expenditures, as defined in § 264.0, exceed the State's required Contingency Fund MOE level; and

(3) The amount of contingency funds that the State may retain or must remit.

(b) If a State exceeded its required Contingency Fund MOE level, it may be able to retain some or all of the contingency funds that it received.

(c) A State determines the amount of contingency funds that it may retain by performing the following calculations:

(1) From the lesser of the following two amounts:

(i) The amount of contingency funds paid to it during the fiscal year; or

(ii) Its countable State expenditures, as defined in § 264.0, minus its required Contingency Fund MOE level, multiplied by:

(A) The State's Federal Medical Assistance Percentage (FMAP) applicable for the fiscal year for which funds were awarded; and